

## **CHAPTER 10**

### **CASH AND DEBT MANAGEMENT**

#### **Bankruptcy**

A city, county, or other political subdivision of this state shall not be a debtor under chapter 9 of the federal Bankruptcy Code, 11 USC section 901 et seq., except as otherwise specifically provided in chapter 76 of the Iowa Code (76.16).

A city, county, or other political subdivision may become a debtor under chapter 9 of the federal Bankruptcy Code, 11 USC section 901 et seq., if it is rendered insolvent, as defined in 11 USC section 101(32)(c), as a result of a debt involuntarily incurred. As used herein, debt means an obligation to pay money, other than pursuant to a valid and binding collective bargaining agreement or previously authorized bond issue, as to which the governing body of the city, county or other political subdivision has made a specific finding set forth in a duly adopted resolution of each of the following:

1. That all or a portion of such obligation will not be paid from available insurance proceeds and must be paid from an increase in general tax levy.
2. That such increase in the general tax levy will result in a severe, adverse impact on the ability of the city, county, or political subdivision to exercise the powers granted to it under applicable law, including without limitation providing necessary services and promoting economic development.
3. That as a result of such obligation, the city, county, or other political subdivision is unable to pay its debts as they become due.
4. That the debt is not an obligation to pay money to a city, county, entity organized pursuant to chapter 28E, or other political subdivision (76.16A).

#### **Cash Management**

##### **Investments**

A depository means a bank, a savings and loan, or a credit union in which public funds are deposited under Iowa Code chapter 12C (12C.1(2)(a)).

Public funds mean the moneys of a school corporation that are placed in a depository (12C.1(2)(b)).

A school corporation governing body may delegate its investment authority, under the provisions of Iowa Code chapter 12C, to the treasurer or other financial officer of the governmental unit, who shall thereafter be responsible for handling investment transactions until such delegation of authority is revoked (12C.11). A school district has two financial officers; one is the secretary and the other is the treasurer.

A depository may make reasonable service charges with respect to the handling of public funds, but the service charges shall not be greater than the depository customarily requires from other depositors for similar services (12C.12).

The board of directors and the designated financial officers are not liable for loss of funds by reason of the insolvency of the depository institution when the funds have been deposited or invested as provided in chapter 12C (12C.8).

Pending audit and allowance of claims under section 279.29, the board shall invest moneys of the corporation to the extent practicable, and the board may provide for the joint investment of moneys with one or more school corporations pursuant to a joint investment agreement. All investments of funds shall be subject to sections 12B.10 and 12B.10A and other applicable law (279.29).

The treasurers shall at all times keep funds coming into their possession as public money in the vault or safe to be provided for that purpose or in one or more depositories approved by the board. However, the treasurer shall invest, unless otherwise provided by Code, any public funds not currently needed in investment authorized by section 12B (12B.10(1)).

The treasurer shall exercise the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use to attain the goals of Iowa Code 12B.10(2). This standard requires that when making investment decisions, a public entity shall consider the role that the investment or deposit plays within the portfolio of assets of the public entity and the goals of 12B.10(2). The primary goals of investment prudence shall be based on the following order of priority:

- a. Safety of principal is the first priority.
- b. Maintaining the necessary liquidity to match expected liabilities is the second priority.
- c. Obtaining a reasonable return is the third priority (12B.10(2)).

Investments of public funds shall be made in accordance with written policies. A written investment policy shall address the goals set out above and shall also address, but is not limited to, compliance with state law, diversification, maturity, quality, and capability of investment management. Investments by a political subdivision must have maturities that are consistent with the needs and use of that political subdivision or agency (12B.10(3)).

The investment of public funds which are operating funds by a political subdivision shall be subject to the following:

- a. Operating funds means those funds which are reasonably expected to be expended during a current budget year or within fifteen months of receipt.
- b. Operating funds must be identified and distinguished from all other funds available for investment.
- c. Operating funds may only be invested in investments which mature within three hundred ninety-seven days or less and which are authorized by law for the investing public entity (12B.10A(a)).

A treasurer of a political subdivision may invest funds of the political subdivision or agency that are not operating funds in investments having maturities longer than three hundred and ninety-seven days (12B.10A(3)).

At the time of any examination of or settlement with the treasurer in charge of any public funds, the treasurer shall produce and count in the presence of the officer or officers making such examination or settlement, all moneys or funds then on deposit in the safe or vault in the treasurer's office, and shall produce a statement of all money or funds on deposit with any depository wherein the treasurer is authorized to deposit such funds, which settlement shall be certified by one or more officers of such depository, and shall correctly show the balance remaining on deposit in such depository at the close of business on the day preceding the day of such settlement. The treasurer shall also file a statement setting forth the numbers, dates, and amounts of all outstanding checks, or other items of difference, reconciling the balance as shown by the treasurer's books with those of the depositories (12B.11).

It shall be the duty of the officer or officers making such settlement to see that the amount of securities and money produced and counted, together with the amounts so certified by the legally designated depositories, agrees with the balance with which such treasurer should be charged, and the officer shall make a report in writing of any such settlement or examination, and attach thereto the certified statement of all such depositories (12B.12).

Any officer or other person making a false statement or report or in any manner violating any of the provisions of sections 12B.10 to 12B.13 shall be guilty of a fraudulent practice (12B.14).

If any auditor or treasurer or other officer shall neglect or refuse to perform any act or duty specifically required of the officer, such officer shall be guilty of a simple misdemeanor, and the officer and the officer's surety shall be liable on the official bond for any fine imposed, and for the damages sustained by any person through such neglect or refusal (12B.15).

Deposits by a school treasurer or school secretary shall be in depositories located in this state which shall be selected by the board of directors. However, deposits may be made in depositories outside of Iowa for the purpose of paying principal and interest on bonded indebtedness when the deposit is made not more than ten days before the date the principal or interest becomes due (12C.4).

The approval of a financial institution as a depository shall be by written resolution or order which shall be entered of record in the minutes of the approving board, and which shall distinctly name each depository approved, and specify the maximum amount which may be kept on deposit in each depository (12C.2).

Public deposits shall be deposited with reasonable promptness in a depository legally designated as depository for the funds (12C.6).

A depository shall not directly or indirectly pay interest to a public officer on a demand deposit of public funds, and a public officer shall not take or receive interest on demand deposits of public funds. This provision does not apply to interest on time certificates of deposit or savings accounts for public funds (12C.7(1)).

Interest or earnings on investments and time deposits shall be credited to the general fund with the exception of specific funds for which investments are otherwise provided by law. Funds so excepted shall receive credit for interest or earnings derived from such investments or time deposits made from such funds (12C.7(2)).

The board, who by law have control of any fund created by direct vote of the people, may invest any portion of the fund not currently needed, in investments authorized in Iowa Code section 12B.10 (12C.10).

The treasurer or other designated financial officer of each school corporation shall invest the proceeds of notes, bonds, refunding bonds, and other evidences of indebtedness, and funds being accumulated for the payment of principal and interest or reserves in investments permitted by Code (12C.9(1)). Earnings and interest from these investments shall be used to pay the principal or interest as the principal or interest comes due on the indebtedness or to fund the construction of the project for which the indebtedness was issued, or shall be credited to the capital project fund for which the indebtedness was issued (12C.9(2)).

Public funds of the state shall not be deposited in a financial institution which does not demonstrate a commitment to serve the needs of the local community in which it is chartered to do business, including the needs of neighborhoods, rural areas, and small businesses in communities served by the financial institution. These needs included credit services as well as deposit services (12C.6A(1)).

## **Debt Management**

### **Advanced Funding Authority**

The Iowa advance funding authority is a public instrumentality and agency of the state exercising public and essential governmental functions, established for the purposes of reducing the cash flow difficulties faced by Iowa schools, improving the financial procedures of Iowa schools, and reducing the short-term borrowing costs of Iowa schools (257C.4).

“School” includes each public school district, AEA, and community college (257C.3(5)).

The general assembly finds:

1. The establishment of the authority is in all respects for the benefit of the people of the state of Iowa and the improvement of the financing procedures for Iowa's schools.
2. The authority will be performing an essential governmental function in the exercise of the powers and duties conferred upon it by chapter 257C.
3. Iowa schools face a serious and increasing problem with cash flow difficulties caused, among other factors, by increasing reliance on state school foundation aid, delays in the payment of state school foundation aid, and the periodic payment of property taxes for school purposes.
4. As a result of their increasing cash flow difficulties, Iowa schools have had to borrow on a short-term basis larger amounts of funds more often, thus increasing their borrowing costs significantly.
5. The short-term borrowing costs of Iowa schools are a direct burden on the taxpayers of the state.
6. It is necessary to create the authority to provide a means for Iowa schools to reduce substantially or eliminate their short-term borrowing costs and thus reduce costs to the taxpayers.
7. All of the purposes stated in this section are public purposes and uses for which public moneys may be borrowed, expended, advanced, loaned or granted (257C.2).

Members of the authority board and persons acting in the authority's behalf, while acting within the scope of their employment or agency, are not subject to personal liability resulting from carrying out the powers and duties given in this chapter (257C.11).

A school may issue and sell or pledge its notes to the authority or the authority's designated agent or trustee. Schools may enter into contracts and agreements with the authority to effectuate the purposes of this chapter. In acting pursuant to this section, schools are exempt from all laws of the state which provide for competitive bids and hearings in connection with such sales, pledges, contracts and agreements (257C.16).

## **Stamping Warrants**

If a warrant other than an anticipatory warrant is presented for payment, and is not paid for want of funds, or is only partially paid, the treasurer shall endorse the fact thereon, with the date of presentation, and sign the endorsement, and thereafter the warrant or the balance due thereon, shall bear interest at the rate specified in section 74A.2 (74.2).

When a fund contains sufficient money to pay one or more interest-bearing obligations which are outstanding against the fund, the treasurer shall call those obligations for payment. Obligations may be paid in the order of presentation. This section does not authorize a fixed-term obligation to be called at a date earlier than is provided by the conditions and terms upon which it was issued (74.5).

A warrant not paid upon presentation for want of funds bears interest on unpaid balances at the rate in effect at the time the warrant is first presented for payment, as established by rule pursuant to subsection 74A.6(2). This section does not apply to an obligation which by law bears interest from the time it is issued (74A.2).

The committee shall establish the maximum interest rate to be applicable to obligations referred to in section 74A.2, and this rate shall apply unless the parties agree to a lesser interest rate (74A.6(2)).

Warrants may be stamped or anticipatory warrants issued while funds are invested if the investments were made in good faith and without negligence (OAG #81-12-4).

A school corporation can stamp warrants when money is tied up in closed banks (AG Report 1932, p. 265).

The treasurer should make pro rata payments on warrants not paid for want of funds (AG Report 1934, pp. 224, 248).

Stamped warrants should be paid in the order of their date of stamping when sufficient money is on hand (1934 Op. Att'y Gen. 435 (#34-1-9)).

When stamped warrants are partially paid and a new warrant is issued for the balance, the new warrant should take precedence over other stamped warrants issued subsequent to the date of the original (1912 Op. Att'y Gen. 732 (#12-7-9)).

When a school corporation knows that it does not have sufficient funds to pay warrants, for example, payroll, it must still issue the individual warrants and have each one stamped. It cannot issue one warrant from the general fund to a payroll account and stamp just that one warrant (OAG #64-2-28).

Stamped warrants may be issued against the schoolhouse fund when an issue has been voted (OAG #39-5-19).

### **Anticipatory Warrants**

When a municipality determines that there are not or will not be sufficient funds on hand to pay the legal obligations of a fund, it may provide for the payment of such an obligation by drawing an anticipatory warrant payable to a bank or other business entity authorized by law to loan money in an amount legally available and believed to be sufficient to cover the anticipated deficiency (74.1(2)).

The treasurer shall sell anticipatory warrants authorized by subsection 74.1(2) at a rate of interest to be determined by the board. The treasurer may offer the warrants for public sale at par, by publishing notice of the sale for two consecutive weeks in a newspaper of general circulation in the jurisdiction of the school district issuing the warrants, giving not less than ten days' notice of the time and place of the sale. The notice shall include a statement of the amount of the warrants offered for sale. Sealed bids may be received at any time up to the time all bids are opened. The treasurer shall sell the warrants to the bidder offering the lowest interest rate, provided that the treasurer may reject all bids and readvertise the sale of the warrants pursuant to the provisions of this section. This section applies only to school districts whose anticipated receipts allocable to the current budget are at least equal to their legally approved budget for the current year (74A.7).

The AEA board is authorized to issue warrants and anticipatory warrants pursuant to chapter 74. This subsection shall not be construed to authorize a board to levy a tax (273.3(17)).

A school corporation may not give promissory notes nor may it issue warrants to borrow money for current operating expenses in excess of the budget estimate (1948 Op. Att'y Gen. 5 (#47-1-6)).

### **Leases**

The Code does not give authority to school districts to lease equipment or to enter into a lease-purchase agreement for equipment (OAG #62-3-7).

An AEA shall expend school improvement technology block grant funds received pursuant to subsection 256D.5(2) for the costs related to supporting school districts within the area served with technology planning and equipment, including hardware and software, materials and supplies related to instructional technology and the lease or lease-purchase agreements for those items, employment of or contracting with information technology specialists to provide technical consulting and integration of technology in curriculum and instruction, and staff development and training

related to instructional technology. A consortium of AEAs may cooperatively engage in any of these activities (246D.8(3)). This chapter is repealed effective July 1, 2003 (256D.9).

### **Lease-Purchase**

Lease-purchase arrangement includes, but is not limited to, an arrangement in which title of ownership passes when the final installment payment is made (8.46(1)(b)).

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An AEA may hold property and execute lease-purchase agreements pursuant to subsection 273.3(7), and if the lease exceeds ten years or the purchase price of the property to be acquired pursuant to a lease-purchase agreement exceeds \$25,000, the AEA shall conduct a public hearing on the proposed lease-purchase agreement and receive approval from the AEA board of directors and the director of the department of education before entering into the agreement (273.2).

The AEA board is authorized to lease, subject to the approval of the director of the department of education and to receive by gift and operate and maintain facilities and buildings necessary to provide authorized programs and services. However, a lease for less than 10 years and with an annual cost of less than \$25,000 does not require the approval of the director. If a lease requires approval the director shall not approve the lease until the director is satisfied by investigation that public school corporations within the area do not have suitable facilities available (273.3(7)).

### **Installment Acquisitions**

Installment acquisition includes, but is not limited to, an arrangement in which title of ownership passes when the first installment payment is made (8.46(1)(a)).

### **Loans**

The board of directors of a school corporation may purchase equipment, and may negotiate and enter into a loan agreement and issue a note to pay for the equipment from the general fund. The note must mature within five years, or the useful life of the equipment, whichever is less. Before entering into a loan agreement for an equipment purchase, the school corporation must publish a notice, including a statement of the amount and purpose of the agreement, at least once in a newspaper of general circulation within the school corporation at least ten days before the meeting at which the loan agreement is to be approved (279.48).

The board of directors of an AEA is authorized to purchase equipment as provided in section 279.48 (273.3(20)).

The board of directors may pay the actual cost of an asbestos project from any funds in the general fund of the district [AEA] or moneys obtained through a federal asbestos loan program, to be repaid from any of the funds specified in this section over a three-year period (279.52).

The department of natural resources may make loans to the school districts and AEAs for implementation of energy conservation measures identified in a comprehensive engineering analysis. Loans shall be made for all cost effective management improvements. School districts may enter into financing arrangement with the department or its duly authorized agents or representatives obligating the school district to make payments on the loans beyond the current budget year of the school district. Chapter 75 shall not be applicable. AEAs shall repay the loans from any moneys available to them (473.20).